

COMMONWEALTH OF KENTUCKY

RECEIVED

BEFORE THE PUBLIC SERVICE COMMISSION

DEC 16 2004

PUBLIC SERVICE COMMISSION

In the matter of:

AN ADJUSTMENT OF THE GAS AND )  
ELECTRIC RATES, TERMS, AND CONDITIONS ) CASE NO.  
OF LOUISVILLE GAS AND ELECTRIC ) 2003-00433  
COMPANY )

AND

AN ADJUSTMENT OF THE ELECTRIC RATES, ) CASE NO.  
TERMS, AND CONDITIONS OF KENTUCKY ) 2003-00434 ✓  
UTILITIES COMPANY )

NOTICE CONCERNING ADDITIONAL DOCUMENTS REQUESTED FROM LG&E

Comes the Attorney General, Gregory D. Stumbo, by counsel and provides the Commission notice concerning the Attorney General's ongoing efforts to obtain documents from LG&E in furtherance of the Attorney General's investigation concerning ex parte contacts.

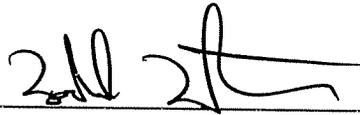
In his earlier filings with the PSC requesting the PSC to extend the December 17, 2004 deadline for the Attorney General to file his report on the investigation concerning ex parte contacts the Attorney General informed the PSC of the arrival of 15,000 – 20,000 pages of LG&E corporate credit card statements from American Express Company. Attorney General also informed the PSC of an ongoing effort to obtain information from LG&E regarding its expense reports, specifically unredacted expense reports from LG&E officers John McCall, Mike Beer and George Siemens. LG&E has now offered to provide said expense reports although the details for protecting the confidentiality of said documents has not been resolved. See letters between David Kaplan and Todd Leatherman attached hereto.

This additional information concerning the Attorney General's ongoing investigatory

efforts is submitted in additional support of the Attorney General's request for an extension of time to file his final report concerning his investigation. The investigation cannot be completed until these additional documents are received and investigators have sufficient opportunity to review and conduct follow up inquiry.

Respectfully submitted,

GREGORY D. STUMBO  
ATTORNEY GENERAL

By:   
Pierce Whites, Deputy Attorney General  
Janet Graham, Deputy Assistant Attorney General  
Todd Leatherman, Assistant Attorney General  
Office of the Attorney General  
1024 Capital Center Drive  
Suite 200  
Frankfort, Kentucky 40601

CERTIFICATE OF SERVICE

The undersigned does hereby certify that the foregoing Notice Concerning Additional Documents Requested from LG&E was served upon the parties in the attached service list by first class mail on this the 16<sup>th</sup> day of December, 2004.

  
Assistant Attorney General



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

GREGORY D. STUMBO  
ATTORNEY GENERAL

December 15, 2004  
(502) 581-1087

1024 CAPITAL CENTER DRIVE  
SUITE 200  
FRANKFORT, KY 40601-8204

Mr. David S. Kaplan  
Frost Brown Todd LLC  
400 West Market Street, 32<sup>nd</sup> Floor  
Louisville, KY 40202-3363

Re: LG&E/KU Civil Subpoena and Investigative Demands

Dear David:

This is in response to your letter of December 10, 2004 responding to my December 2 letter requesting LG&E's production of unredacted expense reports from the period of January 1, 2002 through June 30, 2004 for Mike Beer, George Siemens and John McCall. We appreciate LG&E's offer to make the documents available to us, however, we do not believe the restrictions contained in the prior order relating to American Express records are appropriate to these corporate expense records. We believe that the prior Agreed Order reflects Judge Crittenden's concern for maintaining the privacy of arguably personal expenses evidenced in the American Express records. However, that concern is not present where the expenses are by definition corporate expenses for which the individual is seeking corporate reimbursement. Rather than add an unwarranted additional layer of court supervision to this investigation, we would propose maintaining the confidentiality of these records in accordance with the requirements of KRS 367.250, with this letter serving as written assurance of that commitment. Alternatively, we would be willing to issue a Civil Subpoena and Investigative Demand specifically identifying the documents, if that would further assure your client regarding the confidential treatment of the documents produced.

Finally should you and Sheryl still be interested in meeting with our office to discuss details concerning LG&E's production, please advise.

Sincerely,  
GREGORY D. STUMBO  
ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "T. Leatherman".

Todd E. Leatherman  
Director, Consumer Protection Division



**Frost  
Brown Todd** LLC  
ATTORNEYS

KENTUCKY · OHIO · INDIANA · TENNESSEE

David S. Kaplan  
(502) 568-0356  
[DKAPLAN@FBTLAW.COM](mailto:DKAPLAN@FBTLAW.COM)

December 10, 2004

**VIA FACSIMILE AND  
U.S. MAIL**

Mr. Todd E. Leatherman, Director  
Consumer Protection Division  
Office of the Attorney General  
1024 Capital Center Drive, Suite 200  
Frankfort, KY 40601-8204

Re: Attorney General Civil Subpoena and Investigative Demand issued pursuant to  
KRS Chapter 367

Dear Todd:

I am writing to respond to your December 9, 2004 letter requesting "the complete, unredacted expense reports" and related receipts for Mike Beer, George Siemens and John McCall, for the period January 1, 2002 to June 30, 2004.

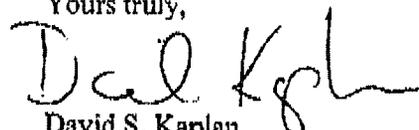
As your December 9 letter indicates, LG&E has already produced all expense reports for Messrs. Beer, Siemens and McCall which are responsive to the First and Second Subpoenas, but your December 2 letter requested - for the first time - all of the expense reports of these three men, whether or not they relate to the PSC at all. Therefore, like the superfluous documents you subpoenaed from American Express, which are in addition to the credit card records LG&E had already produced, these additional expense reports have no relevance to the Public Service Commission's investigation of whether collusion or improper *ex parte* contacts tainted the final orders entered in the Rate Cases on June 30, 2004.

Nevertheless, solely to bring closure to your seemingly endless requests for yet more documents, LG&E will agree to produce the requested expense reports for the three individuals you have identified; subject to the condition that the Attorney General agree to receive and hold the documents subject to the same terms which apply, pursuant to the Agreed Order, to the documents received by your office from American Express. Since the Attorney General agreed to these terms in the past with respect to similar documents, we assume that you will have no objection to having those same conditions apply to the production of these documents. I have enclosed an Agreed Order modeled on the American Express Order. Upon the entry of this Order by Judge Crittenden, we will produce the requested documents.

Mr. Todd E. Leatherman, Director  
December 10, 2004  
Page 2

Please contact me if you are agreeable to this approach so that we can begin to assemble the documents on an expedited basis while Judge Crittenden signs the Agreed Order.

Yours truly,



David S. Kaplan

Enclosure

cc: Dorothy E. O'Brien  
Picce Whites  
Sheryl G. Snyder

DSK:pg

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COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
DIVISION I

CIVIL ACTION NOS. 04-CI-962 and 04-CI-970

KENTUCKY PUBLIC SERVICE COMMISSION,  
ON BEHALF OF ITSELF AND SIXTEEN  
CURRENT AND FORMER EMPLOYEES

PLAINTIFFS

v.

GREGORY D. STUMBO, IN HIS OFFICIAL  
CAPACITY AS ATTORNEY GENERAL OF  
THE COMMONWEALTH OF KENTUCKY

DEFENDANT

and

KENTUCKY UTILITIES COMPANY and  
LOUISVILLE GAS AND ELECTRIC COMPANY

PLAINTIFFS

v.

GREGORY D. STUMBO, IN HIS OFFICIAL  
CAPACITY AS ATTORNEY GENERAL OF  
THE COMMONWEALTH OF KENTUCKY

DEFENDANT

**AGREED ORDER**

Upon agreement by Louisville Gas and Electric Company ("LG&E") and the Attorney General, and the Court being otherwise sufficiently advised,

IT IS HEREBY ORDERED that LG&E's production to the Attorney General of any expense reports and supporting documentation shall be subject to the following conditions:

1. As used in this Order, the following terms shall have the following meanings:

a. "Expense Reports" shall mean the expense reports, including all related receipts, pertaining to Mike Beer, George Siemens and John McCall for the period January 1, 2002 through June 30, 2004 which are provided by LG&E to the Attorney General pursuant to this Order and in response to the request for documents set forth in the letter dated December 9, 2004 from Todd Leatherman to David Kaplan.

b. "The Attorney General" shall mean every person employed by or retained by the Attorney General.

2. The Attorney General shall maintain the confidentiality of every Expense Report pursuant to the terms of this Order, including:

a. The Attorney General shall maintain the Expense Reports in such a manner that they are accessible only by lawyers and paralegals (and their personal assistants) who are engaged in the investigation in which the document request was made upon LG&E.

b. Before any Expense Report is disclosed, described or otherwise identified by the Attorney General to the Public Service Commission or any court or any other person or entity, the Attorney General shall give counsel for LG&E the opportunity to explain or comment on the document(s). The Attorney General may utilize the procedures authorized in KRS 367.240 to obtain additional information or explanation from LG&E employees regarding the Expense Report, provided that any formal or informal witness statement relating to any Expense Report(s) shall also be kept confidential pursuant to the terms of this Order.

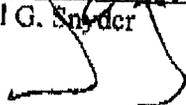
c. If, after counsel for LG&E has been given the opportunity to explain the document(s), the Attorney General intends to disclose, describe or otherwise identify any

Expense Report to the Public Service Commission or any court or any other person or entity, the Attorney General shall provide written notice to counsel of record in this action for LG&E, not less than five business days prior to the proposed disclosure, description or identification, a description of the proposed disclosure, description or identification, in order to give LG&E an opportunity to apply to the Court for an appropriate order. Any notice of intended disclosure, description or identification shall also be kept confidential by the Attorney General.

c. If, upon receipt of such written notice, counsel for LG&E applies to this Court for an order, the Attorney General shall not make the disclosure, description or identification proposed in the written, confidential notice until after the Court has ruled upon LG&E's application. All documents filed with this Court in connection with any such application shall be filed under seal.

\_\_\_\_\_  
Roger Crittenden  
Judge, Franklin Circuit Court

AGREED TO BY:

\_\_\_\_\_  
Pierce B. Whites  
  
\_\_\_\_\_  
Sheryl G. Snyder  


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**FROST BROWN TODD LLC**

400 West Market St., 32nd Floor

Louisville, Kentucky 40202-3363

(502) 589-5400

Fax (502) 581-1087

The information contained in this fax is confidential and intended for the use of the individual or entity named below. If the reader of this message is not the intended recipient (or the employee or agent responsible to deliver it to the intended recipient), you are hereby notified that any dissemination, distribution or copying of this communication is prohibited. If you have received this communication in error, please notify us by collect telephone and return the original message to us at the above address at our expense.

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**FAX MESSAGE**

Friday, December 10, 2004 4:48:12 PM

**TO: COMPANY/FIRM:**

**CITY, STATE, COUNTRY:**

**FOR ATTENTION OF:** Todd Leatherman

**FAX NUMBER:** 1-502-564-2894

**CONFIRM NUMBER:**

**NUMBER OF PAGES (INCLUDING COVER SHEET):** 06

**FROM:** David Kaplan (by Peggy Giles)

**MESSAGE:**

If you do not receive all the pages, please call 502-779-8504 as soon as possible.

CLIENT NO: 0000HCTJ

MATTER NO: 0526320